***Statement***

***Insurance Association of Connecticut***

March 4, 2010

Judiciary Committee

HB 6474, An Act Concerning The Resolution Of Liens In Workers' Compensation Cases

The Insurance Association of Connecticut is opposed to HB 6474, An Act Concerning The Resolution Of Liens In Workers' Compensation Cases, as it is unnecessary, unfair and a costly endeavor that provides no benefit.

HB 6474 mandates that workers' compensation liens be reduced by one-third if there is a cause of action brought against a third party, however liens held by the state and municipalities are exempt from the provisions of this proposal. If it is bad for the state and towns, how is it not bad for businesses operating here in Connecticut? The state and municipalities were removed from the provisions of this act because of the significant fiscal note a similar proposal had last year. If such a proposal is costly to the state, cities and towns exempting them from HB 6474's provisions, how is it not a financial burden to Connecticut businesses?

Pursuant to the terms of HB 6474 a workers' compensation lien is reduced by one-third solely if an employee brings a separate cause of action against a liable third party. Why is the lien being reduced by one-third? HB 6474 is unprecedented by dictating a party's rights to negotiate. Currently, employers are free to compromise its lien if they so choose. It is not for the legislature to statutorily require a compromise of any lien, let alone a worker's compensation lien. HB 6474 will result in reducing the

recovery of what has already been paid under the workers' compensation system, driving up loss costs, impacting rates.

If the goal of HB 6474 is to compensate plaintiff's counsel for pursuing a third party claim, why should a workers' compensation lien be reduced at all to pay an attorney the employer has no relationship with? Connecticut law mandates that if an employer wants to protect its lien, it must pursue a direct action of its own or join an action brought by the plaintiff. As such, the lien holder must retain counsel of its own to protect the lien holder's interest. That can be done at minimal cost to the employer as the lien holder controls the contractual relationship with the counsel it chooses. Yet if HB 6474 were to pass, the lien holder would lose its right to contract and be forced to enter into a contract with an attorney it did not choose, may not want, and at a rate set by statute.

No other attorney fee is guaranteed by statute. It is not the job of the state to protect attorneys from bad business decisions. If an attorney chooses to pursue a personal injury action against a third party on behalf of a client and can only recover an amount equal to, or slightly more than, the workers' compensation lien, than that was a bad business decision on behalf of the attorney to pursue that case. An employer should not be forced to fund that decision. A recovery of that nature simply proves that that individual was fairly compensated by our workers compensation system.

If the reduction of the lien contained in HB 6474 is to provide more compensation for the injured party, that simply is ignoring the fundamental policy behind Connecticut's current workers' compensation system, in that all injured workers are treated fairly and adequately. Mandating the reduction of a workers' compensation lien, simply because an individual may have a cause of action against a third party, puts

that injured worker in a better position than all other injured workers. The rationale behind the mandate that any workers' compensation lien be paid in full was so that no one person was permitted to receive a windfall and to make the workers' compensation system whole. HB 6474 improperly ignores that rationale by permitting one class of workers to receive a windfall at the expense of the rest of the workers' compensation system. Reduced recoveries directly impact an employer's workers' compensation rates. HB 6474 will cause workers' compensation rates to increase for no valid reason.

HB 6474 provides no benefit to employers, employees or the worker's compensation system. The IAC strongly requests your rejection of HB 6474.